

IOWA
PUBLIC EMPLOYMENT RELATIONS BOARD

ANNUAL REPORT

FY 2000

July 1, 1999 to June 30, 2000

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IOWA PUBLIC EMPLOYMENT RELATIONS BOARD

TABLE OF ORGANIZATION

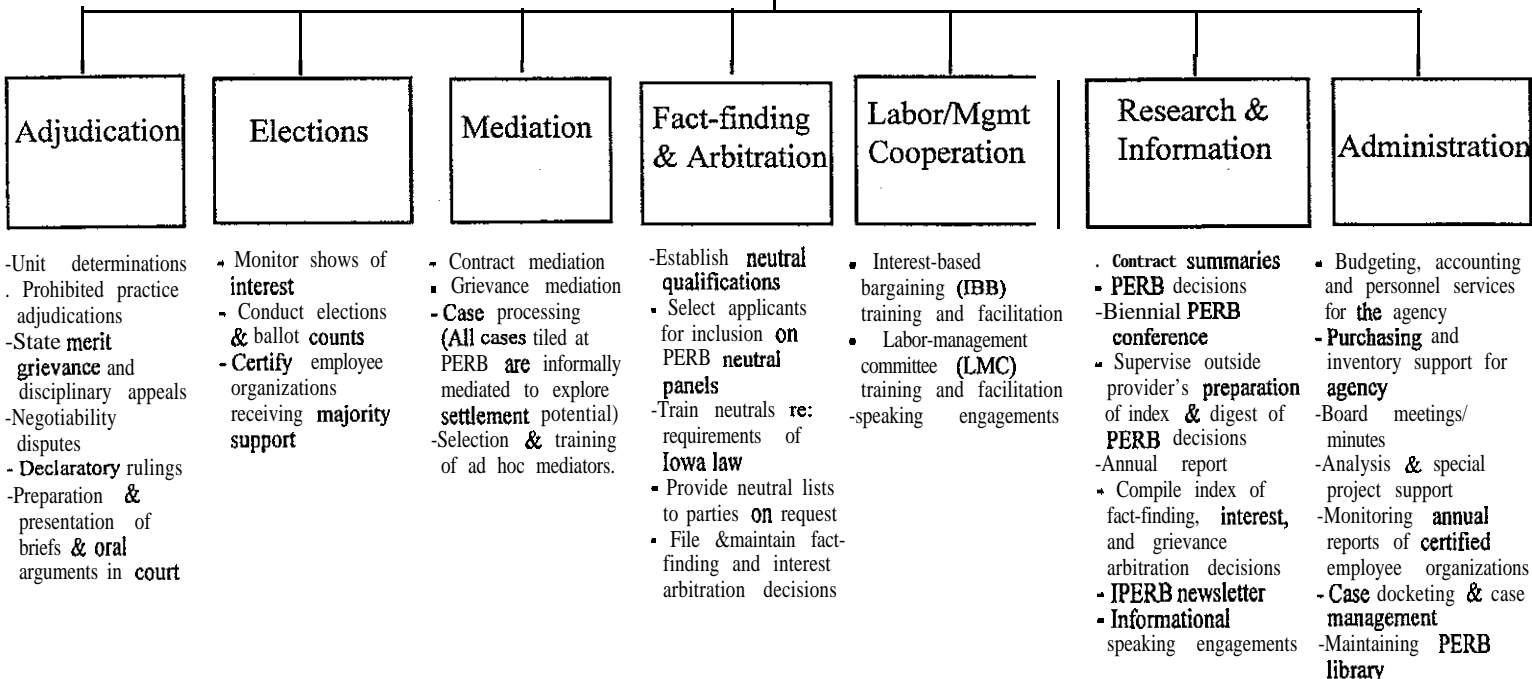
Total Staff = 12

CHAIR (1)

Richard P. Moore
281-4046

BOARD MEMBERS (2)

M. Sue Warner
281-4042
James R. Riordan
281-4143



PROFESSIONAL STAFF: (6)

Jan Berry (General Counsel)
281-4131
Charles Boldt (Administrative Law Judge)
281-4052
Susan Bolte (Administrative Law Judge)
281-4044
James McClimon (Senior Labor Relations Examiner)
281-4053
James Murphy (Administrative Law Judge)
281-4055
Diane Tvrdik (Administrative Law Judge)
281-4133

SUPPORT STAFF: (3)

Barb Johnson (Secretary 3)
281-4048
Leisa Luttrell (Secretary 2)
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MISSION STATEMENT

To promote harmonious and cooperative relationships between government and its employees without disruption of public services, via the expert and timely services of a neutral agency.

PERB's mission is derived from Section 1 of the Public Employment Relations Act, Iowa Code chapter 20, which establishes the powers, duties and responsibilities of the Public Employment Relations Board

The general assembly declares that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of this state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations. The general assembly declares that the purposes of the public employment relations board established by this chapter are to implement the provisions of this chapter and adjudicate and conciliate employment-related cases involving the state of Iowa and other public employers and employee organizations. For these purposes the powers and duties of the board include but are not limited to the following:

1. Determining appropriate bargaining units and conducting representation elections.
2. Adjudicating prohibited practice complaints including the exercise of exclusive original jurisdiction over all claims alleging the breach of the duty of fair representation imposed by section 20.17.
3. Fashioning appropriate remedial relief for violations of this chapter, including but not limited to the reinstatement of employees with or without back pay and benefits.
4. Adjudicating and serving as arbitrators regarding state merit system grievances and, upon joint request, grievances arising under collective bargaining agreements between public employers and certified employee organizations.
5. Providing mediators, fact finders, and arbitrators to resolve impasses in negotiations.
6. Collecting and disseminating information concerning the wages, hours, and other conditions of employment of public employees.
7. Assisting the attorney general in the preparation of legal briefs and the presentation of oral arguments in the district court and the supreme court in cases affecting the board.

OVERVIEW

The Public Employment Relations Board (PERB) was established effective July 1, 1974, by the General Assembly's enactment of the Public Employment Relations Act (PERA), Iowa Code chapter 20.

The PERA defines the collective bargaining rights and duties of public employers and public employees in Iowa. It has broad coverage, applying to virtually all public employees within the state except supervisors, confidential employees, and other classifications specified in Iowa Code section 20.4.

The PERA provides that public employees may organize and bargain collectively with their employers through labor organizations of their own choosing. To assure that representation by a labor organization is truly the employees' choice, secret ballot representation elections are conducted by PERB. To insure that the rights of public employers, employee organizations and employees are protected and to prevent labor disputes from resulting in the disruption of services to the public, the Act defines certain prohibited labor practices and provides PERB with the statutory authority to fashion appropriate remedial relief for violations of the PERA.

The PERA requires a public employer to bargain with its employees' designated labor organization. The subjects upon which bargaining is mandatory are set forth in Iowa Code section 20.9, which provides a more limited scope of bargaining than the traditional "wages, hours, and other terms and conditions of employment" applicable in the private sector under the National Labor Relations Act.

Strikes are prohibited in the Iowa public sector, with strong sanctions imposed in the event of an illegal work stoppage. In lieu of the right to strike, the PERA contains a detailed procedure for the resolution of collective bargaining impasses. Until 1991, the statutory impasse-resolution procedure which applied to all bargaining units and public employers was a three-step system consisting of mediation, followed by fact-finding and culminating in binding arbitration if no voluntary agreement had been reached. In 1991 the General Assembly modified the statutory procedure for bargaining units of teachers licensed under Iowa Code chapter 272 who are employed by school districts, area education agencies and community colleges, adopting a two-step procedure for those employees which omits fact-finding. The former three-step procedure remains applicable to other represented bargaining units.

Iowa Code sections 20.1(4) and 19A.14 impose upon PERB the responsibility to hear and decide grievance and disciplinary action appeals filed by certain employees covered by the state merit system.

Since its inception, PERB has certified representatives for over 1,380 bargaining units and has issued approximately 1,390 formal decisions. During FY 00, PERB provided impasse resolution services (mediators, fact finders and/or arbitrators) in 582 disputes involving state, county, city, school district, area education agency and community college employers and their employees.

SUMMARY OF PERB DUTIES

I. BARGAINING UNIT DETERMINATIONS/REPRESENTATION ELECTIONS

Bargaining unit questions continue to generate a great deal of agency activity. As part of its statutory responsibility to determine appropriate bargaining units and conduct representation elections under Iowa Code sections 20.13-20.15, the Board received 78 petitions in FY 00 (97 in FY 99) raising issues concerning the composition of bargaining units. Petitions to amend already-existing bargaining units were again the most frequent type of unit filings.

Representation elections constitute the most visible PERB activity in these statutory areas. Representation elections are conducted either on site by agency personnel, by mail-balloting procedures, or through a combination of these methods. Public employees are provided maximum opportunity to participate in the process which determines, by secret ballot, whether they will be represented by an employee organization for the purpose of collective bargaining, and if so, the identity of their labor representative. Eligible voter participation rates of 85-100% are not uncommon.

During FY 00, PERB processed 31 election petitions (36 in FY 99) and conducted 26 elections (29 in FY 99). The number of representation elections during FY 00 demonstrates a continued interest in collective bargaining activities in the Iowa public sector. The number of public sector bargaining units in Iowa has increased from 421 in 1975 to 1,104 during FY 00.

II. ADJUDICATORY FUNCTIONS

One of PERB's primary responsibilities involves the processing and adjudication of a variety of cases filed with the agency pursuant to the PERA, including unit determination cases (those involving the composition, amendment, and clarification of appropriate bargaining units), prohibited practice complaints (cases involving claimed violations of the statutory rights of public employers, public employees or employee organizations), declaratory rulings (cases seeking PERB's interpretation of PERA provisions) and negotiability disputes (cases interpreting the scope of the mandatory subjects of bargaining): Although some acts constituting prohibited practices may also be remedied by resort to contractual grievance procedures or action in the district courts, PERB possesses exclusive original jurisdiction over all employee claims which allege an employee organization's breach of its Iowa Code section 20.17 duty to fairly represent all employees in a collective bargaining unit. PERB also serves as the final administrative step in personnel action cases adjudicating grievances and disciplinary actions filed by state merit system employees pursuant to Iowa Code section 19A.14.

Each petition filed with the agency is initially assigned to a case processor who, by working with the parties involved, attempts to informally resolve the matter prior to a formal hearing. If all issues are not resolved, the case is referred to either the Board or an administrative law judge (ALJ), and a formal hearing is held. In cases assigned to an ALJ, a proposed decision and order is issued which becomes the final agency decision unless it is appealed to or reviewed on motion of the Board. Declaratory rulings and negotiability disputes are heard and decided by the Board without the involvement of an ALJ.

Judicial review of PERB decisions is governed by the Iowa Administrative Procedure Act, Iowa Code chapter 17A. The district courts, sitting in an appellate capacity, review the record created before the agency to determine whether any of the grounds for reversal or **modification** of agency action specified by Iowa Code section 17A.19 have been established. District court decisions reviewing PERB actions are appealable to the Iowa Supreme Court.

In addition to deciding contested cases, the Board and its administrative law judges act as grievance mediators and arbitrators, upon mutual request of the parties, in cases involving disputes arising under collective bargaining agreements.

During FY 00, 72 prohibited practice complaints, petitions for declaratory rulings, merit appeals, petitions for resolution of negotiability disputes and other non-unit cases were filed with PERB (compared with 83 such filings in FY 99).

See page 11 for a review of FY 00 caselaw.

III. COURT ACTION: JUDICIAL REVIEW

In addition to serving as ALJs, PERB staff attorneys represent PERB in the courts when any final agency action is judicially reviewed. In so doing? PERB attorneys prepare pleadings, draft briefs and deliver oral arguments in cases before the district courts, the Iowa Court of Appeals and the Iowa Supreme Court, and provide the Attorney General's office with reports of PERB's judicial activities to keep it advised of litigation relating to PERB's specialized area of expertise.

During FY 00, three new petitions for judicial review of PERB decisions were filed in the district courts. Two cases were judicially resolved--one by the Woodbury County District Court and one by the Iowa Court of Appeals--both decisions **affirming** the PERB decision under review.

At the close of the fiscal year, three PERB cases were pending before the district courts and one was before the Iowa Supreme Court.

See page 13 for a review of FY 00 court action.

IV. IMPASSE RESOLUTION SERVICES

One often-overlooked aspect of collective bargaining impasse resolution under the PERA is the parties' ability to design their own impasse-resolution procedure. Iowa Code section 20.19 directs the parties, as the first step in the performance of their duty to bargain, to endeavor to agree upon impasse-resolution procedures. The only restriction specifically placed upon the parties' ability to tailor their own impasse procedures is the section's requirement that any agreed or "independent" impasse-resolution procedures provide for their implementation not later than 120 days prior to the applicable deadline for the completion of the process.

Parties have frequently exercised this ability to design and utilize "independent" impasse procedures, which may take many forms. Such procedures often eliminate a step in the **otherwise-**applicable statutory procedure or provide for a completion date different than the **otherwise-**applicable statutory deadline. As with the "statutory" impasse-resolution procedures, summarized below, PERB offers parties operating under "independent" procedures whatever impasse-resolution services they may require which are within PERB's ability to provide.

However, if the parties fail to agree upon "independent" impasse procedures as contemplated by section 20.19, the "statutory" impasse-resolution procedures set out in Iowa Code sections 20.20-20.22 apply. Those sections set out two separate procedures, both administered by PERB, for resolving collective bargaining impasses. The type of employees within the affected bargaining unit determines which of these "statutory" procedures applies to a given bargaining impasse. For bargaining units which include teachers licensed under Iowa Code chapter 272 who are employed by school districts, area education agencies or community colleges, the statutory impasse-resolution procedure consists of two steps: mediation, which if unsuccessful in producing a complete agreement, is followed by binding arbitration. For other bargaining units of public employees a three-step statutory procedure applies: mediation, followed by non-binding fact-finding, culminating in binding arbitration. PERB's professional staff and board members serve as mediators, and PERB also maintains a list of qualified ad hoc mediators, as well as lists of fact finders and arbitrators to assist in the resolution of bargaining impasses. Mediators from the Federal Mediation and Conciliation Service (FMCS) also provide mediation services for PERB.

Statutory impasse procedures are initiated by the filing of a request for mediation. Upon the filing of such a request, PERB appoints a mediator to de dispute during a statutorily-prescribed period, who meets with the parties to assist them in reaching a voluntary agreement. For bargaining units to which the three-step procedure applies, if mediation fails to resolve the dispute PERB issues a list of five fact finders, from which the parties are allowed to select. A fact-finding hearing is held, and the fact finder issues written recommendations for the resolution of the impasse. If either party rejects the recommendations, binding arbitration may be requested. For bargaining units to which the two-step procedure applies, if mediation has not produced a complete agreement upon the terms of a contract, arbitration may be requested. Upon receipt of an arbitration request, PERB provides a list of arbitrators to the parties from which one is selected to serve as the sole arbitrator or as chairperson of an arbitration panel. A hearing is held, and an arbitration award is issued which, absent judicial intervention, is binding on the parties and establishes the disputed terms of their collective bargaining agreement.

The success of Iowa's impasse-resolution process is evinced by the fact that since the PERA became effective there has been only one public-sector strike and most significantly, approximately 94% of all bargaining impasses have been resolved without resort to binding arbitration. In FY 00, approximately collective bargaining agreements were negotiated. The agency received requests for mediation in 582 bargaining impasses (660 in FY 99), only 33 of which ultimately proceeded through arbitration--a pre-arbitration resolution rate of 94.33%. The tables below provide more detailed impasse data concerning FY 00.

YEAR	TOTAL CERTIFIED UNITS	TOTAL REQUESTS FOR IMPASSE SERVICES	MEDIATED SETTLE- MENTS	FACT- FINDING REPORTS ISSUED	INTEREST ARB. AWARDS ISSUED
1975-76	421	305	195	44	25
1976-77	572	357	203	60	41
1977-78	638	440	253	36	27
1978-79	680	448	258	57	22
1979-80	724	475	323	43	28
1980-81	765	522	332	74	46
1981-82	800	568	347	42	43
1982-83	815	593	402	94	53
1983-84	826	611	399	71	40
1984-85	863	695	385	94	45
1985-86	863	792	356	103	51
1986-87	899	680	431	86	43
1987-88	935	673	430	70	38
1988-89	969	628	410	97	45
1989-90	992	673	457	110	48
1990-91	999	693	456	65	30
1991-92	1017	627	413	29	53
1992-93	1027	740	496	33	36
1993-94	1036	698	391	37	42
1994-95	1052	726	398	21	31
1995-96	1062	575	340	21	24
1996-97	1070	619	351	26	34
1997-98	1087	569	312	19	40
1998-99	1098	661	369	23	35
1999-00*	1106	582	301	20	33

* As of 11/24/00.
There are 7 impasses
still open.

FACT-FINDING REPORTS ISSUED

	<u>School District, Area Ed. Agencies & Comm. Colleges</u>	<u>City</u>	<u>County</u>	<u>State</u>	<u>Other</u>
79-80	24	15	4	0	0
80-81	41	22	9	2	0
81-82	25	11	4	0	2
82-83	60	15	17	1	1
83-84	48	9	13	0	1
84-85	70	16	15	2	0
85-86	54	14	26	0	0
86-87	60	8	18	0	0
87-88	41	14	15	0	0
88-89	68	17	12	0	0
89-90	80	17	13	0	0
90-91	41	14	9	1	0
91-92	4	12	13	0	0
92-93	5	14	14	0	0
93-94	5	21	11	0	0
94-95	4	12	4	1	0
95-96	2	10	9	0	0
96-97	4	12	9	1	0
97-98	6	7	6	0	0
98-99	6	7	10	0	0
99-00*	5	8	7	0	0

* as of 11/24/00

ARBITRATION AWARDS ISSUED

	<u>School District, Area Ed. Agencies & Comm. Colleges</u>	<u>City</u>	<u>County</u>	<u>State</u>	<u>Other</u>
79-80	12	11	4	0	1
80-81	21	17	5	3	0
81-82	11	13	18	0	1
82-83	20	11	19	1	2
83-84	22	14	4	1	0
84-85	25	17	7	2	0
85-86	18	11	14	2	0
86-87	18	13	11	0	0
87-88	12	17	9	0	0
88-89	35	8	2	0	0
89-90	34	8	6	0	0
90-91	16	7	2	5	0
91-92	30	13	10	0	0
92-93	16	12	6	2	0
93-94	26	14	2	0	0
94-95	15	12	3	1	0
95-96	10	9	5	0	0
96-97	21	8	3	2	0
97-98	20	8	12	0	0
98-99	21	7	6	1	0
99-00*	13	12	8	0	0

* as of 11/24/00

V. RESEARCH & INFORMATION SERVICES

Pursuant to Iowa Code sections 20.1 and 20.6, PERB collects, distributes and makes available to the public a wide range of information relating to public employment and public sector collective bargaining in Iowa. Through its PERB Information Service network of subscribing libraries around the state, PERB makes available copies of PERB and PERB-related court decisions, which are mailed to the libraries. The libraries also periodically receive supplements to the Index and Digest of those decisions, as well as an index to fact-finding recommendations and arbitration awards issued each year. The recommendations and awards are indexed according to author, public employer and issues submitted. Copies of all fact-finding recommendations, arbitration awards, and collective bargaining agreements are on file at PERB, and are made available to the public at the cost of copying. The Board also makes available the impasse-resolution information contained in PERB's data files and provides access to the PERB library for research purposes.

Each year the Board publishes four contract summary volumes which summarize the major provisions of public sector collective bargaining agreements submitted to PERB by public employers. These contract summaries are then made available to any interested person, at the agency's cost. During FY 00 approximately 295 collective bargaining agreements were analyzed and summarized by PERB staff.

VI. CERTIFIED EMPLOYEE ORGANIZATION REPORTS

Pursuant to Iowa Code section 20.25, PERB monitors certain internal operations of certified employee organizations. It maintains copies of every certified employee organization's constitution and by-laws, and updates these files as changes in the organizations' governing documents occur. The Board also receives, reviews and maintains each certified employee organization's, statutorily-required annual report, which includes a financial statement and an audit. During FY 00, PERB received reports from 636 certified employee organizations representing the 1,104 collective bargaining units for which a representative is currently certified.

VII. LABOR-MANAGEMENT COOPERATIVE AND INTEREST-BASED BARGAINING PROGRAMS

In Iowa Code section 20.1, the general assembly declared a public policy to promote harmonious and cooperative relationships between government and its employees. The most common method of promoting such cooperation is the establishment and operation of labor-management cooperative committees. Upon receiving a mutual request from the parties, PERB provides training and assistance in a committee's establishment and early operation and facilitates meetings of the committee for a minimum of four to six months. In addition, PERB provides training upon request in the committee-relevant areas of problem solving, consensus building, brainstorming, communication skills and organizational dynamics.

In recent years, some parties have experimented with new bargaining approaches which are less confrontational and adversarial than traditional collective bargaining and which focus greater attention on identifying and solving the parties' mutual problems. This so-called "interest-based bargaining" (IBB) has gained popularity, particularly in schools. PERB has thus far met the increasing demand from employers and unions for interest-based bargaining training and the facilitation of the parties' early efforts to utilize this alternative bargaining methodology through the assistance of the Federal Mediation and Conciliation Service and some private consultants. PERB is developing its own training program to answer the increasing demand for this service.

PERB continues to pursue innovative methods of improving the working relationships between labor and management.

Labor-Management Committees

Black Hawk Co./PPME (Support)	Moravia CSD/EA
Black Hawk Co./Teamsters (Dispatchers)	Muscatine/Firefighters Assn.
Buchanan Co./Teamsters (Sheriff)	Muscatine/Teamsters (Police)
Cardinal CSD/EA	Muscatine/Teamsters (Blue Collar/Clerical)
Cedar Falls/IAFF	Nevada/PPME (Mixed)
Cedar Falls/Teamsters (Police)	Newton/PPME (Police)
Department of Natural Resources/Rangers	Oskaloosa CSD/Support
Des Moines CSD/AFSCME	Ottumwa CSD/AFSCME (Food Serv. & Cust./Maint.)
Fort Madison/PPME (Police)	Sac Co./IAFF (EMS)
Keokuk Co./PPME (Roads)	Vinton/Teamsters (Police)
Marshalltown CSD/Teamsters	

Additionally, in FY 99 the State of Iowa and AFSCME agreed to establish labor-management committees on a comprehensive scale. Training commenced in FY 2000 for labor and management representatives from the following Executive Branch departments and Regents Institutions and their affiliated Locals:

- Corrections (including Community Based Corrections, and facilities at Anamosa, Clarinda, Eldora, Fort Dodge, Fort Madison, Mitchellville, Mount Pleasant, Newton, Oakdale, and Rockwell City)
- General Services.
- Human Services (including health facilities at Cherokee, Clarinda, Glenwood, Independence, Mount Pleasant, and Woodward)
- Inspections & Appeals
- Public Defender
- Revenue & Finance
- Transportation
- Workforce Development
- Iowa School For the Deaf
- Iowa State University
- University of Iowa
- University of Northern Iowa

Trained in or Utilizing IBB or Non-Traditional Collective Bargaining

Bedford CSD/EA	Great River AEA/Special Education
Bettendorf CSD/EA	Employees Assn. (AEA #16)
Black Hawk Co./PPME	Green Valley AEA/EA (AEA #14)
Boyer Valley CSD/EA	Mississippi Bend AEA/PSO (AEA #9)

Camanche CSD/EA
 Centerville CSD/EA
 Clinton CSD/EA
 Corning CSD/EA
 Creston CSD/EA
 Davenport CSD/EA
 Denison CSD/EA
 Dubuque/Fire
 East Union CSD/EA
 Eddyville-Blakesburg CSD/EA
 Fremont-Mills CSD/EA (IBB training)
 Iowa City CSD/EA
 Marshalltown CSD/EA
 North Polk CSD/EA
 North Scott CSD/EA
 Orient-Ma&burg CSD/EA
 Pleasant Valley CSD/EA

Mississippi Bend AEA/CWA (AEA #9)
 Hawkeye CC/EA
 City of Davenport/Firefighters Assn.
 Davenport Public Library/AFSCME
 City of LeClaire/AFSCME
 Scott County/AFSCME (Courthouse)
 Scott County/Sheriffs Assn.
 State of Iowa/AFSCME (IBB training)
 Southwest Community College CSD/EA
 Shenandoah CSD/EA
 Sioux Center CSD/EA
 Urbandale CSD/EA
 Waukee CSD/EA

IBB Committees Studying A Specific Issue

State of Iowa/AFSCME Council 61
 (pilot project at Glenwood State Hospital School
 and Independence Mental Health Institute)

VIII. GRIEVANCE MEDIATION

A collective bargaining agreement (CBA) is a contract between a certified employee organization and a public employer establishing employee wages, hours, and other terms and conditions of employment for a specific period of time. Currently, there are 1,104 public sector CBAs in Iowa.

CBAs typically contain a grievance procedure which allows either an employee or group of employees to initiate a grievance or complaint alleging that the employer violated the agreement. A grievance procedure typically contains certain steps which provide labor and management with an opportunity to informally resolve the grievance prior to arbitration. Arbitration, as the final step in a grievance procedure, generally results in a final and binding decision on the dispute.

Grievance mediation is a procedure designed to address and resolve such workplace disputes. Labor and management explore possible “win-win” settlements of grievances in order to avoid the “win-lose” scenario which results from a grievance arbitration hearing.

The Public Employment Relations Board provides, at no cost to parties, experienced mediators to assist parties in resolving grievances prior to arbitration. Grievance mediation issues have included, for example, discipline and discharge, the tilling of job vacancies, job

assignments, job classifications, transfers, call-in pay, sick leave, overtime, mileage reimbursement, hours of work, promotions, work rules, discrimination, transfers, leaves of absence, and wages. PERB's experience has been that, in most cases, mediation settles the issue without the need for arbitration. Grievance mediation is not a substitute for arbitration; however, it is a process which assists parties in reaching a mutually acceptable resolution.

Grievance mediation is not specifically identified as a PERB function in the Public Employment Relations Act. However, it is PERB's statutory charge to promote harmonious and cooperative relationships between government and its employees which motivates PERB's grievance mediation efforts. To date, grievance mediation has been used in city, county, school and state grievances. PERB has also mediated cases involving a school district administrator termination and a discharge under municipal civil service law. Both labor and management recognize grievance mediation as an integral component in the resolution of workplace issues.

In FY 00 PERB conducted 51 grievance mediations.

LEGISLATIVE ACTIVITY AFFECTING THE PERA

No enactments of the 2000 regular session of the 78th General Assembly affected the language of the Public Employment Relations Act.

FY 2000 CASELAW REVIEW

I. BOARD • DECLARATORY RULINGS

Iowa Code section 17A.9 requires each agency to provide by rule for the filing and disposition of petitions for declaratory rulings as to the applicability of any statutory provision, rule or other written statement of law or policy, decision or order of the agency. Chapter 10 of PERB's rules generally governs petitions for declaratory rulings. In addition, the Board has enacted other rules for a specialized type of petition for declaratory ruling--those which raise negotiability questions requiring expedited processing.

In FY 00, the Board issued no rulings pursuant to its general declaratory ruling rules.

II. BOARD • EXPEDITED NEGOTIABILITY RULINGS

The scope of bargaining for public employers and employee organizations is set out in Iowa Code section 20.9. Subjects of bargaining are divided into three categories. There are specified mandatory subjects, on which bargaining is required if requested (wages, hours, vacations, etc.), permissive subjects, on which bargaining is permitted but not required and illegal subjects, on which bargaining is precluded by law. The classification of a particular item is important not only as it relates to the duty to bargain, but also because only mandatory items may be taken through statutory impasse-resolution procedures, including fact-finding and binding arbitration, absent mutual agreement of the parties.

Because it is not uncommon for the parties to disagree, either during negotiations or impasse-resolution procedures, as to whether certain contract proposals are mandatorily negotiable, it is sometimes necessary for PERB to make a legal determination as to the negotiability status of disputed proposals. Pursuant to its Iowa Code section 17A.9 authority to establish rules for the disposition of petitions for declaratory rulings, PERB has established, by rule, an expedited mechanism for the disposition of such negotiability issues.

Pursuant to this procedure, the parties petition PERB for an expedited negotiability ruling, setting out the precise language of the proposal(s) at issue. The parties are allowed to submit written and/or oral arguments to PERB on the issues. PERB then issues a short-form "Preliminary Ruling" on the matter, designating each proposal at issue as mandatory, permissive or illegal, without supporting rationale or discussion. This **preliminary ruling** is not final agency action. If, after receiving a preliminary ruling, a party desires a final agency **ruling** supported by written reasoning, such may be requested in writing within 60 days and a final ruling will be issued.

During FY 00, the agency issued preliminary negotiability rulings concerning numerous issues in *Laurens-Marathon Community School District and Lumens-Marathon Education Assn.*, Case No. 6034, *East Buchanan Community School District and East Buchanan Education Assn.*, Case No. 6066, *West Liberty Community School District and West Liberty Education Assn. Paraprofessionals*, Case No. 6057, *West Liberty Community School District and West Liberty Education Assn.*, Case No. 6067, *Johnson County and Public Professional and Maintenance Employees Local 2003*, Case No. 6188, and *Des Moines County and AFSCME/Iowa Council 61, Local 2205*, Case No. 6196 and Case No. 6197.

During FY 00, the agency issued final negotiability issues concerning numerous issues in *Waterloo Community School District and Waterloo Educational Support Personnel and Waterloo Education Assn.*, Case Nos. 6014, 6023 and 6017, pending on judicial review; *West Liberty Community School District and West Liberty Education Assn.*, Case No. 6067, pending on judicial review; *Johnson County and Public Professional and Maintenance Employees, Local 2003*, Case No. 6188; *Des Moines County and AFSCME/Iowa Council 61, Local 2205*, Case No. 6196 and Case No. 6197; *East Buchanan Community School District and East Buchanan Education Assn.*, Case No. 6066, and *Sioux City Community School District and Sioux City Education Assn.*, Case No. 5994, pending on judicial review.

III. BOARD - OBJECTIONS TO IMPASSE

Chapter 20 has been interpreted by the Board and the courts as requiring the completion of bargaining and impasse-resolution services by a particular date, absent certain recognized exceptions. Although the Board has established, by rule, a procedure for raising objections to the conduct of further impasse-resolution procedures where it appears the applicable deadline will not be met, in FY 00 the Board was not required to issue any rulings in this area.

IV. OBJECTIONS TO ELECTIONS

Upon written objections filed by any party to a representation election, the Act allows the Board to invalidate an election and hold a second election if the board finds that misconduct or other circumstances prevented the eligible voters from freely expressing their preferences. The Board has established rules governing objections to elections. In FY 00, one such case was decided by an administrative law judge and, on appeal, by the Board. In *Broadlawns Medical Center and AFSCME/Iowa Council 61*, Case No. 5944, the Board, consistent with the ALJ's proposed decision,

determined that an election should be invalidated and a new election held where the employer distributed a memo to employees shortly before the election which contained certain misrepresentations of material facts, which the Board concluded could have affected the results of the election. (Note: AFSCME subsequently voluntarily withdrew its representation petition prior to the scheduling of a second election.)

V. CONTESTED CASE DECISIONS

“Contested cases” are proceedings in which the opportunity for an evidentiary hearing is required by statute or constitution before the rights, duties or privileges of parties are determined by an agency. Although at times forming a significant part of the Board’s caseload, neither petitions for declaratory rulings, petitions seeking the resolution of negotiability disputes nor objections to continued impasse-resolution procedures constitute true contested cases.

During FY 00 the Board and its administrative law judges issued 22 rulings or decisions in true contested cases involving the composition of collective bargaining units (8 rulings or decisions), alleged prohibited practices (12 rulings or decisions) and state employee grievance or disciplinary action appeals (two rulings or decisions). Most of these contested case decisions presented no new or novel issues, but were instead decided by the application of well-established legal principles to differing, sometimes disputed, factual situations.

One contested case decision rendered by the Board is, however, worthy of specific note.

- *In Spencer Municipal Hospital and Minnesota Nurses Assn., Case No. 6120*, the Board declined to dismiss an employee representative decertification petition and adopted the “premature extension doctrine” established by the NLRB, whereby an employee seeking the decertification of an employee organization will not be deprived of that opportunity due to the contract bar rule by an early extension of an existing contract, if the petition would have been considered timely under the “old” contract.

No petition for judicial review of the Board’s decision was filed.

VI. JUDICIAL REVIEW DECISIONS

Final PERB decisions are subject to judicial review by the district courts pursuant to Iowa Code section 17A.19, and the resulting district court judgments are then subject to review by the Iowa Supreme Court or Court of Appeals.

In FY 00, the following decisions were issued on judicial review of agency action:

- *Sioux City Community School District v. PERB, Woodbury Co. LACV119830*: The district court affirmed PERB’s negotiability ruling that “overload” or “premium pay” proposals are mandatory subjects of bargaining. An appeal is pending in the supreme court.
- *Cooper v. PERB and Iowa Department of Human Services (Ct. of Appeals 12/13/99)*: The Iowa Court of Appeals affirmed dismissal for defective service of Cooper’s petition for judicial review of PERB’s decision upholding termination of her employment. A timely petition for further review by the supreme court was denied.

LISTS OF QUALIFIED NEUTRALS MAINTAINED BY PERB

The PERA requires PERB to maintain lists of qualified grievance arbitrators, mediators, fact-finders and interest arbitrators, and Iowa Code chapter 279 requires PERB to maintain a list of qualified teacher-termination adjudicators.

In 1991, pursuant to legislation which had amended Iowa Code section 20.6, PERB established minimum qualifications for these neutrals and established procedures for appointing neutrals to the various lists, for maintaining the lists, and for removing neutrals from the lists. A neutral may be removed from a list by request of the neutral or through procedures initiated by PERB or a complaining party. A neutral may also request that he or she be placed on inactive status for periods of time, due to unavailability.

At the present time, PERB's neutral lists include 118 grievance arbitrators (17 of whom are Iowans), 30 active ad hoc mediators (28 of whom are Iowans), 76 fact-finders and interest arbitrators (15 of whom are Iowans), and 44 teacher termination adjudicators (5 of whom are Iowans).

During FY 00, three neutrals were added and no neutrals were involuntarily removed from PERB's neutral lists.

PERB BUDGET
FISCAL YEARS 2000 & 2001

RECEIPTS	ACTUAL FY 00	BUDGET FY 01
Appropriations	886,407	886,981
Salary Adjustment	37,532	24,115
Transfers	20,900	-0-
Deappropriation	(11,853)	
T&T Transfer	1,310	
Appropriations (Work Comp)		1,126
Miscellaneous Income	<u>10,876</u>	<u>10,000</u>
TOTAL	945,172	922,222

EXPENDITURES	ACTUAL FY 00	BUDGET FY 01
101 Personal Services	824,802	835,499
202 In State Travel	22,083	20,500
205 Out of State Travel	8,000	5,000
301 Office Supplies	8,111	7,500
309 Printing & Binding	26,313	12,000
401 Communications	13,829	9,697
406 Outside Services	29,553	29,500
409 Outside Repairs	4,846	1,000
414 Reimbursements	408	100
416 ITS Reimbursements	820	100
417 Workers Compensaton		1,126
504 Data Processing - Inventory	3,749	100
505 Data Processing-Non-Inventory		100
705 Refunds - Other		-0-
TOTAL,	942,514	922,222

REVERSION	2,568
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